

REMARKS/ARGUMENTS

Claim 20 is rejected under 35 U.S.C. 112, second paragraph. Claim 20, which depends from Claim 16, relates to a cross-linkable polyol-isocyanate blend as the film-forming material of choice. That material does not appear in the Markush group listing of Claim 16. Applicants cancel Claim 20, thereby eliminating any need to maintain the rejection.

Claims 16 – 18, 21, 22, 25, and 31 – 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter et al. (GB 1,061,702) in view of Tusim et al. (US 6,213,540 B1). Applicants respectfully traverse this rejection.

Applicants respectfully submit that “coalesced”, as used in Claim 16, modifies the phrase “hollow extruded strand”. In other words, a plurality of hollow extruded strands coalesce or unite into a whole otherwise known as “a cellular foam structure”. This tracks with explanations provided in the above Application. See, for example, page 1, lines 34 – 39; page 2, lines 14 – 29; page 10, lines 9 – 10 and 13 – 15; page 12, lines 1 – 3; page 20, lines 7 – 34; page 21, lines 3 – 7 and 33 – 41; and Examples 1 – 6. This usage of “coalesce” tracks with the first two definitions offered in Merriam Webster’s Collegiate Dictionary, Tenth Edition (1997) more closely than it does with the third definition offered by the Office.

Applicants’ amendments to the claims to focus upon - - hollow, foamed extrudate strands - - helps distinguish the claimed invention from disclosures in references cited by the Office.

Baxter et al. does not suggest, teach or motivate a skilled artisan to consider a cellular foam structure that comprises a plurality of coalesced, hollow foamed extrudate strands. Instead, Baxter et al. provides, at page 1, lines 26 – 29, “a flexible hollow extruded foamed polyolefin resin sheet having a cross-section in the form of a network of interconnected foamed polyolefin resin elements”. Baxter et al. assembles a number of solid foamed polyethylene elements, about 0.1 inch thick, around a series of approximately 0.3 inch square apertures. See page 1, lines 60 – 65. While Baxter et al. characterize their structure as “a bundle of hollow tubes having foamed polyethylene walls” at page 1, line 65 – 67, it is really an assembly of foamed wall segments about a plurality of discrete apertures or hollow spaces, with adjacent hollow spaces sharing a common foamed wall segment. In other words, Baxter et al. combines a number of individual solid foam elements to form a

single enclosed hollow space rather than combining a number of enclosed hollow spaces to form an article.

Each of dependent Claims 17, 21, 22, and 31 – 33 necessarily incorporate all of the limitations of the claim from which they depend. As such, they should be distinguishable over the cited teachings of Baxter et al.

Applicants agree with the Office's observation that Baxter et al. do not teach that their extruded strands have different composition. They do not, however, agree with the Office's statement that one of ordinary skill in the art would have found it obvious to substitute some of the extruded polyolefin "strands" taught by Baxter et al. with extruded "strands of another material". Such a construct requires hindsight using the present Application as a guide. In the absence of hindsight, it is no more than obvious to try. In other words, it does not even rise to the level of prima facie obviousness.

Tusim et al. admittedly list a number of foamable thermoplastic polymers at column 2, line 65 through column 3, line 34. Part of that discussion includes an allowance for polymer blends. Tusim et al. does not, however, teach or suggest anything other than a homogeneous extruded thermoplastic foam. Nothing in any part of Tusim et al. even hints at strands of different polymeric compositions.

The Office rejects Claim 24 under 35 U.S.C. 103(a) as being unpatentable over DeBlander in view of Baxter et al. and Tusim et al. Claim 24 depends from Claim 16 and incorporates all of the limitations and distinguishing characteristics of Claim 16 discussed above relative to Baxter et al. and Tusim et al. DeBlander does not erase or overcome any of such distinguishing characteristics. DeBlander does describe a number of facing materials at column 5, lines 1 – 13. While DeBlander's description does overlap the facing materials of Claim 24, that overlap does nothing to even partially erase any of the distinguishing characteristics noted above in the discussion of the other two references. With that in mind, Applicants traverse the rejection and respectfully request that it be withdrawn.

Applicants respectfully dispute the Office's suggestion that DeBlander effectively teaches a bundle of hollow tubes having foamed polyethylene walls. DeBlander does not even hint at anything other than solid foam strands that coalesce into a solid foam article. That article, while it includes shaped cavities, has no cavities wholly enclosed by foam. The foamed body must be combined with a facing material in order to close elongated cavities on one side but not the ends of the cavity. Even though this "enclosed" cavity has

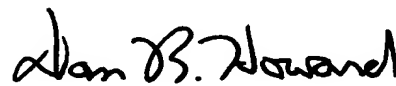
open ends and may be likened to a tube, no part of the DeBlander structure constitutes an assembly of hollow foamed extrudate strands. Neither Baxter et al. nor Tusim et al. supplies this missing feature.

The Office rejects Claims 19 and 23 under 35 U.S.C.103(a) as being unpatentable over Baxter et al. in view of Tusim et al. and Malone. Applicants agree that the strands taught by Malone at column 4, lines 53 – 55 are solid foam strands. As such, Malone does nothing more than replicate the teachings of, for example, Tusim et al. No combination of cited references gives a “structure comprising a plurality of coalesced, hollow foamed extrudate strands”, either alone as in Claim 16 or in combination with “a plurality of solid foamed strands” as in Claim 19.

Applicants thank the Office for indicating that Claims 26 – 30 would be allowable if rewritten in independent form including all of the limitations of the base claim (Claim 16) and any intervening claim (Claim 25). Applicants respectfully reserve their right to make such amendments at a later time should the above arguments be wholly and finally rejected.

As this response includes no new or added claims and has a mailing date prior to expiration of the shortened statutory period, no additional fees are due. Applicants therefore respectfully request entry of the amendments, withdrawal of all rejections and allowance of Claims 16 – 33 at an early date.

Respectfully submitted,



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